

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

CIVIL ACTION NO. 2:10-1087

\$88,029.08, MORE OR LESS,
IN UNITED STATES CURRENCY,

Defendant.

(Katherine Anne Hoover, M.D. and
John F. Tomasic;
No pending federal criminal charges)

UNITED STATES RESPONSE TO
"MOTION TO SET ASIDE DEFAULT JUDGMENT"

Comes now the United States of America, by counsel, Betty A. Pullin, Assistant United States Attorney, and responds in opposition to motion to set aside default judgment (Docket #45) as follows:

1. Pursuant to Rule 55(c), Federal Rules of Civil Procedure, a default¹ may be set aside for good cause.
2. The parties against whom the defaults were entered have failed to establish a meritorious defense and therefore have failed to establish good cause.

¹The relief granted by the Clerk were entries of default, not default judgments.

3. The United States will suffer substantial prejudice which cannot be relieved by the imposition of terms or conditions on the opposing parties if the defaults are set aside.

4. The United States incorporates herein the legal authority set forth in its memorandum of law filed simultaneously with the filing of this response.

WHEREFORE, for the foregoing reasons, and for those set forth in the accompanying memorandum of law, the United States respectfully requests the court to deny the motion to set aside the defaults.

Respectfully submitted,

UNITED STATES OF AMERICA
By Counsel

R. BOOTH GOODWIN II
United States Attorney

By: s/Betty A. Pullin
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A F F I D A V I T

STATE OF WEST VIRGINIA,

COUNTY OF KANAWHA, to-wit:

I, Sgt. M. T. Smith, being first duly sworn, do hereby
depone and state as follows:

1. I have been employed by the West Virginia State Police since October 1997 and my current rank is Sergeant. In October 2002, I was assigned to the State Police's Bureau of Criminal Investigation, where I received additional training and experience focusing on drug investigations and more complex longer-term investigations, including the process of making controlled drug purchases in an undercover capacity and through the use of informants. I have personally been involved in hundreds of drug investigations and undercover operations, ranging from street level operations to multi-person conspiracies, and involving traditional controlled substances such as cocaine, cocaine base, marijuana and heroin. I have also obtained experience and training in the area of pharmaceutical drugs, such as Oxycodone, Hydrocodone, Xanax, Valium and other types of prescription drugs, and investigations of healthcare officials prescribing those pharmaceuticals outside the scope of their medical practice.

2. Since at least 2005, I have been actively involved in an investigation of a medical clinic in Williamson, Mingo County, West Virginia. The clinic has undergone several name changes during that time, to-wit: Williamson Wellness Center, Mountain Medical

Care Clinic, LLC, and William A. Ryckman, M.D., however, its physical location has always been 35 West Third Avenue, Williamson, West Virginia, and its office and medical staff have remained the same with a few exceptions.

3. In March 2010, I assisted other federal, state and local law enforcement officers in executing numerous search and seizure warrants on the medical clinic and on the residences and various bank accounts of office and medical staff associated with the clinic. I have personal knowledge of pending civil forfeiture actions in the United States District Court for the Southern District of West Virginia involving monies seized from targets of the investigation and, in particular, I have personal knowledge of the pending civil action no. 2:10-cv-1087 against sums of currency seized from a bank account of Katherine Hoover and John F. Tomasic, and from a bedroom Katherine Hoover used in the home of a target in another investigation.

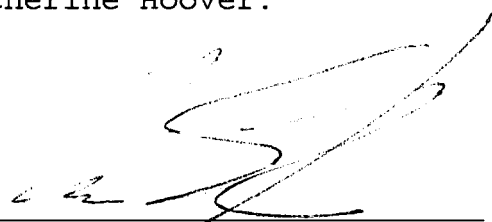
4. On January 18, 2011, Assistant United States Attorney Betty Pullin provided me with a copy of a document filed by Margaret Luper in the pending civil forfeiture action, in which Ms. Luper requested to withdraw a claim she had previously filed in the forfeiture case. The reason stated for withdrawal of her claim was that she had been threatened by John Tomasic. AUSA Pullin asked me to contact Ms. Luper to determine the nature of the threat.

5. At approximately 4:30 p.m. on January 18, 2011, I had a telephone conversation with Margaret Lupher who advised that the threat was communicated to her through her daughter, Kathleen Busse, who is also the daughter of John Tomasic. Ms. Lupher provided me with contact information for Ms. Busse.

6. On January 19, 2011, I contacted Kathleen Busse by telephone. Ms. Busse informed me that about two weeks prior she began receiving telephone calls from Katherine Hoover to contact her father. At first Ms. Busse ignored the calls but then finally relented and contacted John Tomasic by telephone on January 5, 2011. Based on comments Tomasic made to Ms. Busse in this conversation, Ms. Busse believed her father would destroy everything her mother has if her mother did not drop her claim in the forfeiture case. Tomasic then sent Ms. Busse a letter to the same effect. The envelope was addressed to Kathleen Busse in Fond-de-Lac, Wisconsin and the return address on the envelope was "J. Tomasic, 1430 Sheridan St., Unit G4, Hollywood, FL 33020." The postage cancellation indicated it was processed in Jacksonville, Florida, on January 11, 2011. Attached hereto and incorporated herein as "Affidavit Exhibit 1" are copies of the Tomasic letter and envelope which Ms. Busse mailed to me after our telephone conversation. Also included is Ms. Busse's handwritten note confirming it was the letter we discussed.

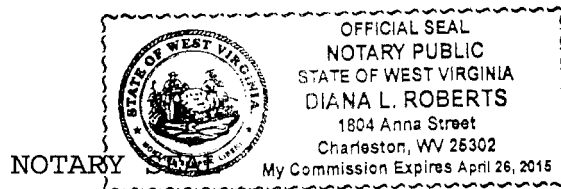
7. Ms. Busse advised that she did not feel her father's threat against her mother was of a physical nature, but was more of a threat of harassing court actions based on her past experiences with and knowledge of her father and Katherine Hoover.

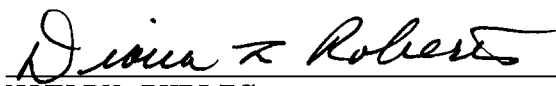
AND FURTHER AFFIANT SAITH NAUGHT.


M. T. SMITH

Subscribed and sworn to before me this 24th day of February, 2011.

My commission expires: April 26, 2015.




NOTARY PUBLIC

1/19/11

Darjeant Smith,

For our phone conversation today,
here is a copy of the letter we discussed

Thank you,
Katherine Bussio

Dear Kathy

I am going the clock back on several issues. The first one is a note Katy received from Marriam sent back in April 2010. It started nicely as a thank you note but quickly turned stranger. She accused Katy and I of saying she was using cocaine. Then accused me of trying to break up your marriage with Roli. The note ended by declaring I didn't give enough of Michael's Law Suite award to everyone.

Now I am going to reveal to you something I told myself long ago I would never do.

What I am about to tell you had a profound effect on your life, but only because of timing and in a very positive way.

Remember when you applied to Grad School at Pitt, you were accepted — But the clock was fast and you were told you could start the following year.

I helped The Penna. Attorney General The year before, as a thank you Assistant Attorney General Glen Watty wrote me a very nice thank you letter

and offered me his assistance; with help in any area I needed within the state of Pa.

I called in that favor for you and you were able to start a year earlier. This shift in start time allowed you to meet Rob. I cannot think of a better match. Katy and I have often said to each other "Kathy appears to be very happy with her life, with a loving, giving husband and a beautiful family."

Now to the issue of wanted to talk about Wed morning. Your mother filed an affidavit claiming all of Michaels Law Suits Money in WVs federal Court against Katy and I. The action your mother filed is under the Maritime and Admiralty Law in an in Rem action. This destroyed all of Katy's jurisdictional power and Constitutional Rights.

First: your mother has no legal claim — No signed contract, order or any document proving she has a right to money in question. Secondly she slandered me in her affidavit.

I tried to ask you to ask your mother to withdraw her affidavit.

My primary concern is Katy, she is still very weak from the poisoning episode and I will do almost anything to keep her safe, and in this case by asking for voluntary withdrawal by your mother. If this does not happen Both Katy and I will file suite against your mother for fraud against the Court and slander. The attempt to contact you was only to prevent aggressive action against your mother.

This in no way was an attack on you or even your mother.

I am content to leaving dead horses lie, but I will not let anything harm Katy. If you were falsely accused or charged with something at work I have absolutely no doubt Rob would have no limits in helping and supporting you.

Remember: the false charge against Michael cost him his life.

Love Dad

Note: The withdrawal notice must be filed with the clerk of court to Betty Pullin by case no.

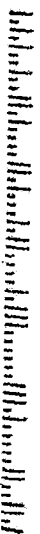
Tomasic
1430 Sheridan St.
Unit G4
Hollywood FL 33020

UNDELIVERABLE TO ADD
IN PARTIAL PAYMENT



Kathleen Busse
W. 3891 Monticello Dr
Fond-du-Lac, Wis.
54935

5493786201



CERTIFICATE OF SERVICE

I, Betty A. Pullin, Assistant United States Attorney, do hereby certify that service of the foregoing "United States Response to Motion to Set Aside Default Judgment" and "Memorandum of Law in Support of United States Response to Motion to set aside Default Judgment" has been made this 28th day of February, 2011, by Federal Express International to the following:

Katherine Anne Hoover and
John F. Tomasic
c/o Dr. Norman Gay
N-3222
247 West Bay Street
Nassau, N.P.
Bahamas
242/525-4018
FAX: 242/328-4014

By: s/Betty A. Pullin
Betty A. Pullin, WV Bar Number: 5590
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